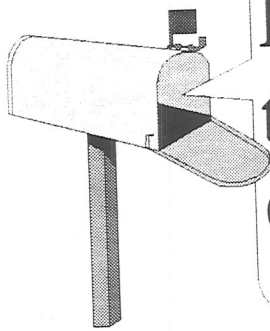


PG 4

Copy to: H. WEISBERG



Letters to the Chronicles

In response to Jim Fetzer's article on the Alteration of the Zapruder Film and the Determination of Proof:

Investigating the Zapruder Film by Martin Shackelford

I found the Lancer seminar on the Zapruder film quite interesting and valuable as a first step toward examining the question of whether the film was altered. I was surprised that, even at the closed session, some were already arguing that the case for alteration (beyond the two known splices) was already proven. I remain unconvinced. It seems to me that there is considerably less altered evidence in this case than has been alleged, though clearly there were alterations of FBI reports, Warren Commission hearing transcripts, and other documents.

As I have learned in retrospect about other events of the '60s, we often err when we attribute too much sophistication and cunning to the government. I was one of those who did not respond "favorably" to Mr. Fetzer's post, reprinted in The Kennedy Assassination Chronicles. I may well be the "other researcher" mentioned.

On this occasion, I shall refrain from engaging with Mr. Fetzer in a lengthy discussion about the meaning of proof, an issue we have explored by e-mail more than the reader will wish to know. Suffice it to say we differ, and I am not prepared to accept "anomalies" as strong enough evidence to establish "a prima facie case" for alteration, and I shall address the issues in sequence:

1) *Background Magnification*: This work on Dr. David Mantik's part seemed clearly worth pursuing, and Dr. Mantik indicated he planned to do further work on it to determine whether it was, in fact, a genuine issue. It is useful here to recall that, to be consistent with the frames published initially by LIFE Magazine, this particular alteration work would have to have been done in a couple of days at the most. This makes the premise Mr. Fetzer accepts so readily rather unlikely, but not impossible. It is another matter to claim that it has already been proven.

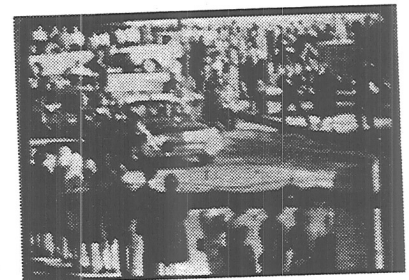
2) *The White Spot*: Dr. Mantik argued that a white spot had been added to the film (frames 313 to 331), and that it showed up in no other photographic evidence. In fact, the "spot" is what appears to be a discarded backing from one

of Mary Moorman's Polaroid photos, and can be seen, in the same location, at the lower edge of uncropped copies of Richard Bothun's photo number five, as was pointed out by Cecil Jones. Why Mr. Fetzer still refers to this argument as "well-founded," despite his being informed of the Bothun photo information, is uncertain, but may provide a guideline for evaluating his standard of "proof" more useful than the philosophical discussion in his article.

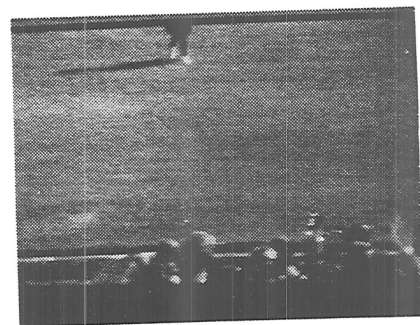
3) *The Greer Head Turn*: At the request of another researcher, who had reviewed the work of Noel Twyman, I looked into this matter a couple of years ago, and determined that Twyman's estimates of angles were in error (two other colleagues who have reviewed Mr. Twyman's work came to similar conclusions). In addition, Mr. Fetzer's comparison of Mr. Twyman's tests to the difference between a four-minute and two-minute mile are misleading. It is interesting that Mr. Fetzer is less confident of this finding than he is of the finding on the "white spot." In my opinion, if we received Mr. Twyman's studies under the name of Dr. John Lattimer, the research community would be viewing them with the proper skepticism, and none of our colleagues would be trumpeting them as conclusive proof of anything.

4) *The Suspended Automobile*: This occurs at the splice of frames 154/157. The frames overlap, and two images of the car aren't quite in sync, thus creating the illusion of suspension (the second set of tires are visible below the automobile). This is proof only of the splice we already knew about.

5) *The "virtually motionless crowd"*: At the seminar, this was described as the "cardboard cutout crowd," and the argument was made that the same crowd image was pasted into a series of frames, from 133 to 196. When I pointed out a variety of motions (13) during that sequence, the term was changed to "virtually motionless," which eliminated the



Z-frame 154-7



Z-frame 309

JFK I
332 N
Grand
tel/fax:
email:
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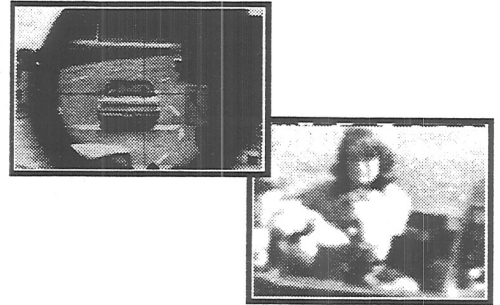
Letters to the editor may be edited for clarity and space. Please include your address, email and phone number on all correspondence.



Behind the Lines

by George Michael Evica, Editor of The Kennedy Assassination Chronicles

- Was the president's body surgically altered in order to deny an assassination conspiracy?
- Was the Zapruder film tampered with in order to deny an assassination conspiracy?
- Were key U.S. intelligence documents with held for over thirty years in order to deny an assassination conspiracy?
- What really happened in the "snipers nest"?



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argument of repeated pasting, but gave the false illusion that an anomaly remained, by comparing the Zapruder film at one time to the Muchmore film at another. Frame by frame comparisons of both films and photos taken at the time show no such inconsistency.

6) *The Little Girl Who Takes Two Steps with the Same Foot*: This is the woman (not a little girl) in frames 296 to 317. From frames 296 to 305, she takes a step forward with her left foot. From frames 306 to 317, she takes a step forward with her right foot. This is so obvious from study of both the frames and the film in motion that I am surprised it was seriously put forth in the first place. It

seems to have been based on an off-the-cuff comment by Jack White during the closed session, based on a single blurred frame!

In summary, an examination of the points of "conclusive evidence" offered by Mr. Fetzer indicates one point (magnification) doubtful, but possibly deserving of further examination; another point (Greer head turn) in considerable dispute among careful researchers; and the remaining four specific points dead wrong. I trust that Mr. Fetzer will refrain from judging me "irrational" based on the preceding discussion.

Continued on page 6



Dr. Robert McClelland in Trauma Room One

Brad Parker

After Charles Crenshaw, M.D., perhaps no Parkland physician-witness to John F. Kennedy's wounds has drawn more criticism than Robert McClelland, M.D. In order to help me sort fact from fiction, I contacted Dr. McClelland in 1992, and he was gracious enough to answer my questions. Based on my interview, and other evidence, I believe Dr. McClelland's credibility holds up extremely well, and his information, which has remained remarkably consistent for over thirty years, cannot be ignored.

Criticisms of Dr. McClelland have centered on his having claimed that President Kennedy had a large rearward skull and scalp defect, presumably representing the fatal bullet's point of exit. This description, if accurate, is incompatible with Oswald's guilt, inasmuch as he was alleged to have been firing from behind and Kennedy's exit wound could not be in the rear. While his detractors have argued that Dr. McClelland was in no position to observe the wound in detail, a close examination of the activities in Trauma Room One suggests otherwise. The record also supports Dr. McClelland over his detractors on other matters.

Dr. Ron Jones' handwritten statement of November 22, 1963 described how the Parkland Trauma Team went into action: "After receiving a stat call from the hospital operator that the President had been shot and was en route to the emergency room I immediately notified Dr. M.T. Jenkins and Miss Audry Bell who were nearby. Myself and Dr. M. O. Perry rushed to the emergency room and found the President to be dying" (Dr. R. C. Jones Exhibit 1 in 20WCH 333). Rather than accompany Drs. Perry and Jones to Trauma Room One, Dr. Jenkins left to retrieve an anesthesia machine to use in the care of the President (Posner 286). The only physician attending the President at this time was Dr. James Carrico (6WCH 8), and the arriving Dr. Perry immediately called for help from Drs. McClelland, Charles Baxter, and Kemp Clark (Breslin 30). In his handwritten report of November 22, Dr. McClelland wrote, "[w]hen I arrived President Kennedy was being attended by Drs. Malcolm Perry, Charles Baxter, James Carrico, and Ron Jones" (CE 392 in 17WCH 11). Similarly, Dr. Paul Peters testified that "[w]hen I arrived, the following people I noted were present in the room: Drs. Perry, Baxter, Ron Jones, and McClelland" (6WCH 69). Notably absent from these statements is the late Dr. Jenkins, the then 46 year old Chief of Anesthesiology, who was delayed due to his retrieval of the anesthesia machine (6WCH 46).

Upon arrival in Trauma Room One, Dr. McClelland went

to the head of the gurney to assist Drs. Perry and Baxter in the tracheotomy, which was already in progress. "...[A]s I took my post to help with the tracheotomy (sic), I was standing at the end of the stretcher on which the President was lying, immediately at his head..." he told the Warren Commission's Arlen Specter (6WCH 32). Dr. Jenkins, arriving, as the record reflects, shortly after Dr.

McClelland, with an anesthesia machine, worked with Drs. Adolf Giesecke and Jackie Hunt to replace the Bird machine, which was already in use (6WCH 32, 76). During this time, Dr. McClelland had several minutes during which he occupied the position customarily reserved for the anesthesiologist. Simultaneously, Anesthesiologist Jenkins was occupied completing the changeover between anesthesia machines (McClelland 09-10-92).

During the tracheotomy, Dr. McClelland's role was to hold the retractor while Drs. Baxter and Perry worked to insert the trach tube. Dr. Perry, who was decidedly busy during this time, later wrote that "Dr. McClelland arrived after I called for help, and he assisted me in the tracheotomy. He was rather busy during this time" (Perry 05-02-94). However, Dr. McClelland commented to the author, "[a]ll I was doing was holding a retractor, which doesn't take much attention to do that." Therefore, he says, he had ample time to examine the massive head injury sustained by the President (McClelland 09-10-92). When asked if he would agree with

"[w]ell, it was probably really larger than that. I would say that it was more like ten centimeters: the whole right posterior part of the head"

Dr. Carrico's estimated size of the wound at five to seven centimeters (6WCH 6), he replied, "[w]ell, it was probably really larger than that. I would say that it was more like ten centimeters: the whole right posterior part of the head"

(McClelland 09-10-92).

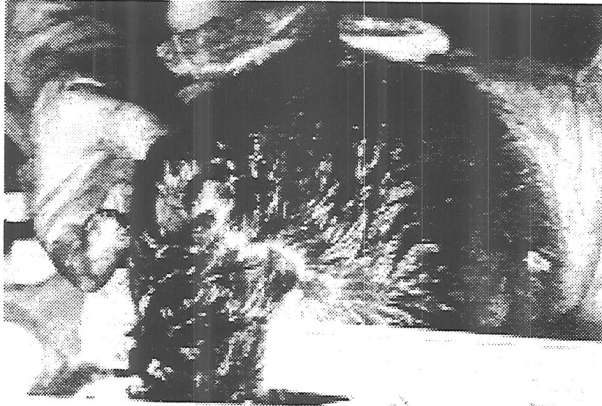
In his Warren Commission testimony, Dr. McClelland described his observations in detail:

"As I took the position at the head of the table... to help out with the tracheotomy, I was in such a position that I could very closely examine the head wound, and I noted that the right posterior portion of the skull had been extremely blasted. It had been shattered, apparently, by the force of the shot so that the parietal bone protruded up through the scalp and seemed to be fractured almost along its right posterior half, as well as some of the occipital bone being fractured almost along its lateral half, and this sprung open the bones that I mentioned in such a way that you could actually look down into the skull cavity itself and see that probably a third or so, at least, of the brain tissue, posterior cerebral and some of the cerebellar tissue had been blasted out. There was a large amount of bleeding which was occurring mainly from the large venous channels in the skull which had been blasted open" (6WCH 33).

Furthermore, he later added, "...there was definitely a piece a cerebellum that extruded from the wound as I stood

there holding the retractor while the tracheotomy was being performed" (McClelland 09-10-92). Upon completion of the tracheotomy, Dr. McClelland stepped aside and Dr. Jenkins assumed the position at the head of the table.

In spite of the fact that the record indicates the tracheotomy had been completed prior to his arrival at the head of the gurney, Dr. Jenkins claimed otherwise. "Everyone claims to be there first, but the only doctor there when I arrived was Carrico, and Drs. Baxter and Perry arrived shortly after me," he told Gerald Posner (Posner 288). "When Bob McClelland came into the room, he asked me, 'Where are his wounds?' And at that time, I was operating a breathing



Autopsy Photo showing intact back of head and purported entry wound at cowlick area.

bag with my right hand, and was trying to take the President's temporal pulse, and I had my finger on his left temple. Bob thought I pointed to the left temple as the wound" (Posner 313). Consequently, Dr. McClelland's report reflects "a gunshot wound of the left temple" (CE 392:17WCH 12), a mistake which would follow him for years. Dr. McClelland, however, explains the mistake in quite different terms: "I wrote that down (in my report) because Jenkins has said that there was (a wound there in the left temple), and I knew that he knew that there was a bullet hole there, and that fit with that larger (posterior) wound" (emphasis added) (McClelland 09-10-92).

Dr. Jenkins' attempt to locate a temporal pulse was not the only occasion on which he asserted his belief that there was a left temporal wound, as his Warren Commission testimony proves:

Jenkins: "I don't know if this is right or not, but I thought there was a wound on the left temporal area, right in the hairline and right above the zygomatic process" (emphasis added). Specter: "The autopsy report discloses no such development, Dr. Jenkins." Jenkins: "Well, I was feeling for—I was palpating here for a pulse to see whether the closed chest cardiac massage was effective or not and this probably was some blood that had come from the other point and so I thought there was a wound there also" (6WCH 48).

Later during his questioning, Dr. Jenkins returned to the issue of a wound in the left temple:

Jenkins: "I asked you a little bit ago if there was a wound in the left temporal area, right above the zygomatic bone in the hairline, because there was blood there and I thought there might have been a wound there (in-

dicating)." Specter: "Indicating the left temporal area?" Jenkins: "Yes; the left temporal, which could have been a point of entrance and exit here (indicating) [sic—presumably pointing to where he had identified the wound in prior testimony—the right rear of the skull near the cerebellum], but you have answered that for me (that 'the autopsy report discloses no such development')" (6WCH 51).

Dr. Jenkins was also quick to criticize Dr. McClelland's statements regarding the damaged cerebellum, a portion at the very rear and bottom of the brain. "Bob is an excellent surgeon. He knows anatomy. I hate to say Bob is mistaken, but he is clearly not right (about the cerebellum)," he told Posner (Posner 313). Ironically, Dr. Jenkins failed to mention, nor did Posner make note of, the fact it was Jenkins himself who had, over a 15 year time span, described damage to Kennedy's cerebellum on at least four occasions:

1) In his report to Parkland Administrator J.C. Price on the day of the assassination, Dr. Jenkins described "...a great laceration on the right side of the head (temporal and occipital) (sic), causing a great defect in the skull plate so that there was herniation and laceration of great areas of the brain, even to the extent that the cerebellum had protruded from the wound" (emphasis added) (CE 392 in 17WCH 15).

2) To the Warren Commission's Arlen Specter, Dr. Jenkins said, "[p]art of the brain was herniated; I really think part of the cerebellum, as I recognized it, was herniated from the wound..." (emphasis added) (6WCH 48). Dr. Jenkins also told Specter that the temporal and occipital defect was a wound of exit: "...the wound with the exploded area of the scalp, as I interpreted it being exploded, I would interpret it being a wound of exit..." (6WCH 51).

3) In an interview with the House Select Committee on Assassinations' Andy Purdy on November 10, 1977, Dr. Jenkins was said to have expressed that, as an anesthesiologist, he "...was positioned at the head of the table so he had one of the closest views of the head wound...(and)...(believes he was '...the only one who knew the extent of the head wound.')(sic)...(and) [r]egarding the head wound, Dr. Jenkins said that only one segment of bone was blown out—it was a segment of occipital or temporal bone. He noted that a portion of the cerebellum (lower rear brain) (sic) was hanging out from a hole in the right—rear of the head" (emphasis added) (7HSCA 286-287).

4) In an interview with the American Medical News, published on November 24, 1978, Dr. Jenkins said that Kennedy "...had part of his head blown away and part of his cerebellum was hanging out" (emphasis added) (American Medical News 14).

In an August 18, 1992, interview with the author, Dr. Jenkins' recollection was "clearly not right," as he said, "I did talk about the cerebellum extruding from the wound, and that was wrong. It was the cerebrum... and I knew it at the time, because the cerebellum is far posterior to that, and well hidden within the skull" (Jenkins 08-18-92). Earlier that year, he had told Posner that "[t]he description of the cerebellum was my fault," he claimed. "When I read my re-

port over I realized there could not be any cerebellum. The autopsy photo, with the rear of the head intact and a protrusion in the parietal region, is the way I remember it. I never did say occipital" (Posner 311-312). More specifically, he told this author, "I didn't say 'temporal and occipital'... in the letter to (J.C.) Price... the massive wound was temporal parietal... (and) that's a big stretch from the temporal area to the occipital" (Jenkins 08-18-92). However, the report to which he is referring can be found as part of Commission Exhibit 392, thus proving Dr. Jenkins to be in error (CE 392 in 17WCH 14-15).

Perhaps following the Jenkins lead, Dr. Perry also expressed his apparent dismay at Dr. McClelland's comments regarding the cerebellum. "I am astonished that Bob would say that. It shows such poor judgement, and he usually has such good judgement" he told Posner (Posner 312-313). Evidently, Dr. Perry had forgotten that he too had described similar damage on several occasions. In his handwritten report of November 22, 1963, he described "...a large wound of the right posterior cranium... exposing severely lacerated brain. Brain tissue was noted in the blood at the head of the carriage." (CE 392 in 17WCH 6). In his subsequent Warren Commission testimony, he described "...a large avulsive injury of the right occipitoparietal area, but I did not do a minute examination of it" (6WCH 11), and indicated in a 1963 article by Jimmy Breslin that he observed damage to the cerebellum (Breslin 30). During questioning by the HSCA's Andy Purdy, he again stated that "...I looked at the head wound briefly by leaning over the table and noticed that the parietal occipital head wound was largely avulsive and there was visible brain tissue in the macard and some cerebellum was seen, and I didn't inspect it further" (emphasis added) (7HSCA 302). However, by early 1992, he was attempting to bury his previous statements with an interview published in the May 27, 1992 issue of The Journal of the American Medical Association, and he even told Posner in 1992 that "I don't think any of us got a good look at the head wound. I didn't examine it or really look at it carefully" (Posner 309). Again trying to throw attention away from his own previous descriptions, Dr. Perry stated in 1994 that "[n]o one, except Dr. Kemp Clark, carefully examined the head wound" (Perry 05-02-94). So perhaps Dr. Perry is implying that Dr. Clark's statements hold the key to who is the more credible witness to the injuries.

Dr. Kemp Clark, the then 38-year-old Chairman of Neurosurgery, stated in a typed report of November 22 that "[t]here was a large wound in the right occipitoparietal region... (and) [t]here was considerable loss of scalp and bone tissue. Both cerebral and cerebellar tissue were extruding from the wound" (CE 392 in 17WCH 3). Additionally, a handwritten report filed that same afternoon stated, "[t]here was a large wound beginning in the right occiput extending into the parietal region... (and) [m]uch of the posterior skull appeared gone at brief examination..." (CE392 in 17WCH 10). At a 1:30 p.m. press conference on that day, he told reporters that "[t]he head wound could have been either an exit wound from the neck or it could have been a tangential wound, as it was simply a large, gaping loss of tissue" (1327-C 5). During his Warren Commission testimony four months later, he added that he "...examined

the wound in the back of the President's head. This was a large, gaping wound in the right posterior part, with cerebral and cerebellar tissue being damaged and exposed" (6WCH 20). In a series of interviews with researcher David Naro in January of 1994, Dr. Clark reaffirmed his original statements on several occasions and thus backed up the account of Dr. McClelland. "[T]he lower right occipital region of the occipital region was blown out and I saw cerebellum," he said. Furthermore, he added, "[i]n my opinion the wound was an exit wound" (Naro).

Another of Posner's favorite sources for refuting the wounds consistently described by Dr. McClelland is Dr. James Carrico. "We never had the opportunity to review his wounds in order to describe them accurately. We were trying to save his life," he told Posner (Posner 309). However, Dr. Carrico apparently observed the wounds well enough to describe them in great detail during a sworn statement to Arlen Specter on March 24, 1964:

Specter: "Would you describe as precisely for me as possible the nature of the wound which you observed on the President?" Carrico: "The wound that I saw was a large gaping wound, located in the right occipitoparietal area. I would estimate to be 5 to 7 cm. (sic) in size, more or less circular with avulsions of the calvarium and scalp tissue. As I stated before, I believe there was shredded macerated cerebral and cerebellar tissues in both the wounds and on the fragments of skull attached to the dura" (emphasis added throughout) (6WCH 5-6).

During questioning by the HSCA's Andy Purdy in 1978, Dr. Carrico again described "...a fairly large wound in the right side of the head, in the parietal, occipital area. One could see blood and brains, both cerebellum and cerebrum fragments in that wound" (emphasis added) (7HSCA 268). On Purdy's urging, Dr. Carrico became more detailed in his descriptions:

Carrico: "The head wound was a much larger wound than the neck wound. It was five by seven centimeters, something like that, 2 1/2 by 3 (sic) inches, ragged, had blood and hair all around it, located in part of the parietal occipital region" (emphasis added). Purdy: "Could you just state in layman's terms the approximate place that would be?" Carrico: "That would be above and posterior to the ear, almost from the crown of the head, there was brain tissue showing through" (emphasis added) (7HSCA 278).

By 1992, however, he had mysteriously changed his opinion:

"We did say we saw shattered brain, cerebellum, in the cortex area, and I think we were mistaken. The reason I say that is that the President was lying on his back and shoulders, and you could see the hole, with the scalp and brain tissue hanging down his head, and it covered most of the occipital portion of his head. We saw a large hole in the right side of his head. I don't believe we saw any occipital bone. It was not there. It was parietal bone. And if we said otherwise, we were mistaken" (Posner 311).

When asked by the author if he observed any defect to the back of the head, he replied only that, "[h]e was lying on his back." He added that, "I think—see, I've reported to you the facts as I know them... (and) you can read what I said in the medical—in our emergency room reports, which were in Texas Medicine" (Carrico 07-07-92). Ironically, when one consults the article to which he is referring, it states that he reported "...an avulsion of the occipitoparietal calvarium and shredded brain tissue was present with profuse oozing" (emphasis added) (Texas Medicine 61). In a subsequent handwritten note to the author, Dr. Carrico wrote, "[a] fact—with the President lying on his back, the wound was visible without moving his head... (and) I can provide you with little other factual (sic) information" (Carrico 03-94). As with Dr. Perry, Dr. Carrico appears to have followed the Jenkins lead.

In spite of these and other physicians' detailed descriptions of the wound, Dr. Jenkins asserted that his position at the head of the gurney made it impossible for any of the other doctors in attendance to observe the injury. He told Dennis Breo that "[m]y presence there (at the head of the table) and the President's great shock of hair and the location of the head wound were such that it (the wound) was not visible to those standing down each side of the gurney where they were carrying out resuscitative measures" (Breo 2805). In a subsequent interview, Dr. Jenkins claimed that not even Drs. Perry, Baxter, or Carrico, all of whom were in attendance prior to his arrival, could have observed the injury (Jenkins 08-18-92).

Undoubtedly, Dr. Jenkins' and others' motivation for attacking Dr. McClelland has stemmed from his publicly stated beliefs on the nature of the head wound. In a 1992 article, JAMA quoted Dr. McClelland as saying that his observations in Trauma Room One are "...secondary to my viewing of the Zapruder film, which convinced me that the shots were fired from the front" (Breo 2807). When asked in a subsequent interview to offer an opinion based on both the film and his personal observations of the head wound, he speculated that "...the bullet hit from the front, and hit him tangentially in the side of the head, and probably the bullet—it entered somewhere near the front part of the wound that I saw, and blew out part of the skull, and then continued out the back of head at the posterior edge of that wound" (McClelland 09-10-92). This statement, made by Dr. McClelland thirty-two years after his first viewing the Zapruder film, is strikingly similar to Neurosurgeon Clark's speculation that the head injury "...could have been a tangential wound..." as he stated in the infamous Perry-Clark press conference of November 22, 1963 (1327-C 5). Obviously, at the time of this 1963 statement, Dr. Clark had neither watched nor even heard of the Zapruder film.

When asked if he could agree with Dr. Carrico's statement that "[n]othing we observed contradicts the autopsy finding that the bullets were fired from above and behind by a high velocity rifle" (Breo 2805), Dr. McClelland's response was quite simply, "[n]o, I can't" (McClelland 09-10-92). This statement is echoed in JAMA, in which he was quoted as saying, "...the wound I observed did appear consistent with a shot from

the front" Consequently, he added, "...I still have a strong opinion that the head shot come from the front" (Breo 2807).

Dr. McClelland is unique in that not only did he have ample opportunity to examine President Kennedy's wound but his recollections, confirmed by his and others' early evidence, have remained consistent for over thirty years. This in stark contrast to several Parkland physicians, most notably the incredible Dr. Jenkins, cited by Gerald Posner as critical of Dr. McClelland. More than once, Dr. Jenkins' and other criticisms are undermined by their previous sworn testimony. It is ironic that in a book which claimed to have closed the case on the Kennedy assassination, Posner unquestionably relied so heavily upon such inconsistent sources. What is even more ironic is that Posner, a highly educated professional, was

apparently ignorant of such contradictions. The same can be said for The Journal of the American Medical Association whose claim of "Closing the Case in JAMA on the John F. Kennedy Autopsy" (Lundberg 1736- 78) is contradicted by the earlier statements of some of their key witnesses, as put forth in the Breo series of 1992 (Breo, "JFK's Death - Part I," 2794-2803; Breo,

"JFK's Death - Part II," 2804-2807; Breo, "JFK's Death - Part III," 1748-1754).

When one visits with Dr. McClelland, it is apparent that he, above all else, believes what he says, and the record would seem to support his statements. It is indeed unfortunate that the record does not necessarily confirm the recollections of his detractors.

"We must guard against the acquisition of unwarranted influence, whether sought or unsought, by the Military-Industrial Complex. We must never let the weight of this combination endanger our liberties or democratic processes."

President Dwight D. Eisenhower January 1961

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Continued on page

Questions that would seem to be also appropriate, if for the question of whether there is a statutory authority to "take" the film are as follows:

- What actions may the Review Board legally and properly take in order to ensure that the public has access to the original and to high quality copies of the film?

- If the Board believes that the film should be owned by the U.S. government, should the "taking" be by an action of the Review Board or is that an action that should be taken by Congress?

- Another question is whether the Review Board under the JFK Act, has the legal authority to take the Zapruder film?

- Another question is what are the possible consequences of the Board's attempting to take the original film? What are the possible consequences of the Board's not attempting to take the original film?

- Another question which may be of interest to the Board is what monetary value should be attached to the film? Now I should say to the public here that the Board has received in confidence monetary appraisals of the Zapruder film that were conducted by experts, retained by the Department of Justice, and by LMH Company in cooperation with each other. So, the Board has had some information which is currently protected on some evaluation which the Board is free to either accept or reject in its best judgement.

- To say that the Zapruder film is "invaluable" or is "important" does not really answer the question of what monetary value should be attached to the film. If the film were taken by the JFK Act, or if Congress were to purchase the film, the legal owner would still need to be compensated. How much should the government pay to compensate the original owner?

- Finally, is there a cost beyond which the government should not take the original? Should it be up to a certain amount that would be appropriate for either the Review Board or Congress to take the film but beyond that amount it would not be appropriate.

Those are all questions confronting the Board. And finally a question that the Board should consider is whether the Board, if it decides not to take action to take the Zapruder film should it urge Congress to take the film? Thank you very much.

Afterward:

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The Assassination Records Review Board held a public hearing at the original National Archives in downtown Washington, D.C. on April 2, 1997 which was attended by the Chronicles' Debra Conway.

Jeremy Gunn, General Counsel for the Assassination Records Review Board

I appreciate all of you coming today, thank you for attending this hearing. We are going to hear first from the General Counsel for the Assassination Records Review Board, Mr. Jeremy Gunn who is going to outline some of the issues that are presented to the Review Board by the Zapruder film. Mr. Gunn?"

Mr. Gunn-Thank you Mr. Chairman, members of the Review Board, Dr. Marwell. The meetings of this Board are regulated by the federal law called the Government in the Sunshine Act. Under the Sunshine Act, the Review Board's deliberations should be open to the public except to the extent that the deliberations would involve issues relating to national security, or certain types of legal strategy. The vast majority of the Board's deliberations to date have been in closed meetings where issues of national



Dr. Henry Graff, Professor Emeritus of History at Columbia University Dr. Anna K. Nelson, Adjunct Professor of History at American University The Honorable John R. Tunheim, Chair, United States District Court Judge for the District of Minnesota Dr. Kermit L. Hall, Dean, College of Humanities, and Professor of History and Law at The Ohio State University Dr. William L. Joyce, Associate University Librarian for Rare Books and Special Collections at Princeton University Dr. David G. Marwell, Executive Director
Photo, Joe Backes

"tAKING tHE ZAPRUDER FILM"

security have been discussed in the records that the Board has reviewed. The question now before the Board is what action it should take, if any, with regard to the disposition of the original Zapruder film. It necessarily involves discussion of issues that are properly within the public domain but that also involve issues that may involve some type of legal strategy. In my opinion, the Board is acting properly in holding this open meeting and to the greatest extent possible deliberating publicly about issues that are of public concern.

I would like to provide a little bit of background about the Zapruder film. The conventional story of the Zapruder film is as follows. Mr. Abraham Zapruder was a clothing manufacture in Dallas, Texas, who had, who's company was located near Dealey, Plaza. On November 22 Mr. Zapruder took a late model Bell and Howell zoom camera containing double 8 millimeter Kodak film to Dealey Plaza to record the presidential motorcade. The film that he took there is now universally regarded as including some of the most important images of the actual assassination. After the motorcade passed, the Secret Service learned this and accompanied him to a Kodak laboratory in Dallas where the original film was developed. They then went to Jamieson Film Co. which made three copies, which I will refer to as "first day copies" of the original film. Two of those first day copies were loaned to the Secret Service and are now in the hands and in the custody of the National Archives. They are the property of the U.S. government.

The third first day film, along with the original was subsequently sold, as I will get into in a moment. Now when I refer to the terms "original" and "camera original" I am describing what is generally thought to have been the film that was actually in Mr. Zapruder's camera at the time the motorcade passed. I will use the term "copy" to refer to any image that was made from that original film.

Some researchers believe that what we are calling here today the camera original may not in fact be the camera original film. I am going to continue to use the term "camera original" to describe what is commonly understood without any prejudice to whether in fact that is the original film or not or whether there may indeed be a copy, or a film that precedes that.

Shortly after the film was developed, Mr. Zapruder

sold the original film and his remaining first day copy to Time, Inc. Although there has been some controversy in the past regarding the amount that Mr. Zapruder was actually paid by Time magazine, Time Inc., the record reflects that he received a \$25,000 dollar cash payment which he then gave to the Dallas police department for the widow of officer Tippit and he received subsequent payments of totalling approximately \$150,000 dollars over a several year time span. Life magazine which then had the original film published some frames of the Zapruder film as early as November 29, 1963 and in some subsequent issues during the following two years.

In 1975 Time-Life sold the original film to LMH company for \$1.00 dollar. The shareholders of LMH company are the widow and the children of Mr. Zapruder who now is deceased.

In 1978, LMH Company placed the original film in the National Archives under a storage agreement. LMH company believes today that it currently possesses legal

part of this question. Under the JFK Act, an assassination record includes, among other records, any "record that is related to the assassination of President John F. Kennedy...that was made available for use by...the Warren Commission." The record reflects that the Zapruder film was, the original Zapruder film was explicitly and specifically requested by the Warren Commission, and the Warren Commission and the staff were shown versions, were shown the original film Zapruder film. This would seem to suggest that within the statutory definition the Zapruder film qualifies as being an assassination record.

Moreover, the Board independently, from prior statements, believes that the original film is an assassination record within the meaning of its own regulations.

Now at this public hearing today there are things that I understand the Board will be doing and things it may not be doing in order that there be some clarity I'll try and suggest some of things I think the Board is not going to be doing.

The purpose of today's hearing is to seek public comment and advice on what should be done with the camera original and motion picture film of the assassination that was taken by Abraham Zapruder on November 22, 1963. That film has been stored, the original has been stored at the National Archives. It was placed there by Mr. Zapruder's heirs who have now formed a company and they claim to posses legal title to the film. And so the Review Board is faced with the question of how to properly handle this artifact, the original, camera original film from the day of the assassination.

title to this film that is now located in the National Archives.

Although the public does not now have access to the original film, this would not necessarily change if the U.S. government were to have possession rights over the original film. The Archives keeps the film in cold storage, at what I understand to be 25 degrees Fahrenheit in archivally sound conditions. The original film due to shrinkage cannot now be shown on a standard motion picture projector. The possible uses of the original today would thus be presumably limited to forensics examinations of the film as well as to making master copies of the film, either internegatives or interpositives of the film.

At the archives today there are still slide copies of the film that are available for examination. Copies of individual frames as well as the film itself are widely available to the public in books, magazines, videos, motion pictures, and there's even a version on CD-ROM.

One of the questions that the Board needs to consider under the JFK Act is whether the Zapruder film is an "assassination record" within the meaning of the Act. The Review Board's authority, of course, derives from the JFK Act which was passed by Congress in 1992. The JFK Act itself provides for the "expeditious public transfer of assassination records to the National Archives." And the question is raised is this Zapruder film an assassination record that should be in the JFK Collection at the Archives and essentially, should that be federal government property rather than the property of private citizens?

To some extent the statute answers, well, at least

The Board is not seeking comment from the public regarding whether the Zapruder film is one of the most important records of the assassination. The reason the Board would not be considering this is that is a foregone conclusion that that is the case. The Board already acknowledges this. Nor is there a question of whether the Zapruder film is an assassination record under the JFK Act as I have just outlined. Nor does the Board question whether, in the ideal world, were no costs involved, whether the Zapruder film ought to be possessed the U. S. government and placed in the Archives.

The Board also is not undertaking today any examination regarding the authenticity of the Zapruder film, although it is aware of the controversy surrounding those allegations.

The Board also is not holding a hearing on whether LMH company possesses legal title to the Zapruder film. That would, to the extent that that is a controversy would be a matter for the courts. Similarly, the Board is not evaluating the validity of LMH Company's copyright interests in the film, that also would be a matter for the courts.

Rather, the core question for the Board today is whether it should undertake an action that would effect a "taking," in constitutional terms, of the original film, or whether the Board should seek a negotiated arrangement with the Zapruder family, now LMH Company, that would attempt to: (a) make high quality copies of the Zapruder film easily available to the public for the first time, (b) provide for forensic testing of the film, to determine in part

any questions relating to authenticity and (c) would ensure that the U.S. Congress has an option, if it so chooses, to purchase the film.

The choice then, for the Review Board is, to some extent, should the film be taken and transferred to the JFK Collection in the Archives, or should a negotiated arrangement be made that would include some terms that would make copies of the film easily available to the public.

I would like to outline the parameters of the two options before the Board. So, the first one is the "taking" option. The first witness who will be following me, Professor Brauneis, will discuss some of the constitutional and statutory issues involving how the federal government "takes" private property for public use. I am in somewhat of a quandary in that I am the General Counsel for the Board and the Board is entitled to my confidential legal advice which I have attempted to provide and I believe it would be inappropriate for me to express my own opinions on this matter in this particular forum but Professor Brauneis will examine those issues from his perspective.

Should the Review Board believe that a taking is appropriate it would instruct, presumably, the Archivist of the United States that the Zapruder film should be transferred to the JFK Collection at the Archives. Now to one extent that is a paper transfer. The film would continue to be stored in exactly the same location but rather than having the LMH company be recorded as the owner the U.S. government would be the owner of the film. Although there are several possible developments that might follow from that instruction by the Board, one likely scenario is that LMH company would then sue the federal government in the United States Court of Federal Claims and demand just compensation for having been deprived of its property. The Department of Justice would then, presumably represent the United States and the Review Board in any following litigation.

If the court were to agree that the Review Board has the authority to transfer the film the court would then, presumably, likely determine the value and order that LMH company be compensated out of funds from the U.S. Treasury. Under this particular scenario, Congress would not need to make any particularized appropriation of funds for the film, although, payments nevertheless are derived from funds appropriated by Congress for this litigation fund.

If the Board were to attempt a negotiated arrangement option, it would likely follow along, the following, would likely contain the following provisions.

- First, LMH would agree to make the best possible available copy of the Zapruder film using the best available technology, best available current technology. The high quality copy would include the images that are between the sprocket holes on the original film. A digitized version of this film, or of the original film could then be made.

- Second, LMH would agree to make this high quality copy available to researchers for their individual use. Thus, to the extent that LMH has a perfected copyright interest in the film they would agree to license to some extent the use of the high quality images.

- Third, although copies would be available at cost to the public from the archives LMH would nevertheless continue to possess whatever copyright interest it would have in the film. Thus, although members of the public could then easily purchase, for the first time, high quality images of the film for their individual use the license agreement with the Archives would not provide that members of the public would be entitled to make subsequent commercial use of that film. So, a member of the public could request the film, obtain a copy of it, they could not then under this arrangement go out and redistribute that or put it into a movie or put it into a book and make profits on it.

- Fourth, Congress would be given an option to purchase the film. Such an option could be formulated in different ways. Nevertheless, an agreement would provide that Congress would be given an opportunity to purchase the film and place that in the Archives, have the government have permanent possession of it in the Archives.

- Finally, the basic term that would likely be involved in such a negotiated agreement, the government would be able to conduct all appropriate forensics tests of the original film, including any and all tests that would reasonably answer the question of the film's authenticity.

I think there are a few questions that the Board ought to consider from the experts who have been called here today and from other members of the public who will be speaking and I would like to give some suggestions of the sort of questions that would be appropriate.

- First, in regards to the camera original film, does the original Zapruder film possess an intrinsic historical value such that the Review Board should take action to ensure that the original is kept at the National Archives, regardless of costs?

- Second, what harm might befall the original if the government does not acquire the film? For example could a private purchaser purchase the film from LMH Company, cut the film into individual frames and then sell that on the public, thus destroying the integrity of the original film.

- Another question is, is the original film itself a wasting asset in the sense that it has deteriorated over time and that it will continue to deteriorate over time so that conceivably a copy of the film right now may be worth more for its evidentiary value than would the original film be twenty years from now. That's a question for the experts.

- Could a high quality copy of the film, which includes images between the sprockets, satisfy all of the legitimate needs of researchers and scholars? If not, which specific needs would not be satisfied by a copy of the original?

- Another question is, could such needs be addressed by the government's conducting a forensics examination? Could a panel of experts be assembled who could look at the original film and make determinations regarding the speed at which the film went, the significance of the images between the holes, and other technical questions that have come up regarding the Zapruder film.

- Finally in this area, there is the question of whether possible future technology not known today, using the original film may be able to answer questions that cannot be answered through current technology.

Chairman Tunheim:

"We have assembled today for testimony an interesting group of experts related to legal issues that are associated with this question, and certainly issues relative to the value of the camera original film taken by Abraham Zapruder, the film itself."

Robert Brauneis,

Let me say at the beginning that there's really not any constitutional question here. Under settled law, Congress has eminent domain powers over both real estate and personal property in the United States, presumably, including the Zapruder film, nor do I think that there's any question that if the Review Board were to direct the Archives to place the film in the JFK Collection that that would constitute a taking for which just compensation is due. The issue, rather, is a statutory one and that is given that Congress has the power to exercise eminent domain did it do so, or did it authorize the Board to do so in the Records Collection Act?

Jim Lesar,

So, I would argue that, and it seems to me also somewhat ludicrous to argue that Congress did not intend that the most important and unique piece of evidence to be in the collection, to be fully accessible to the public, and I think it needs to be subject to government ownership in order to, not only to preserve it, but to make sure that with advances in technology the public may have access to the information provided by any advances in technology that can take place.

Josiah Thompson,

"Dallas, November, 1966, we have 4 x 5 transparencies, the LIFE team is made up of three or four members.

One of those members ends up either stealing or destroying 4 of those frames, very, very important frames. As a young professor of philosophy, I had not a clue what was going on but I knew that something was going on. So, three weeks later I snuck a camera into the TIME-LIFE building and made a copy of the Zapruder film, against specific orders from my employer LIFE magazine.

Moses Weitzman,

Q: "Do you know how many copies there are of the Zapruder film?"

Mr. Moses Weitzman- (sighs) "Oh, God, unfortunately, I probably am the grandfather of many of them. The original copy, the very first copy I made was a 16mm film, which I showed to TIME-LIFE. They were very, very excited about that and they commissioned us to make a 35mm copy. Since there did not exist any proper equipment, the very first copy I made in 35mm was substandard commercially. It was placed incorrectly vis-a vis the track area of the film, so it could not be used. That was thrown into a box in my office. I was general manager and quality control and vice president of the company. I left the company shortly thereafter and was then recalled by the owners of the company, Technical Animations, to sell off their assets. They wanted to close the company down and lo and behold in my office there was my box with that piece of film, that technically imperfect copy. And to the best of my knowledge that copy is what a great many copies have been made from.

Richard Trask,

There will always be ambiguity with the Zapruder film, however, in my experience of being interested and reading about the assassination over a thirty year period it's been amazing how much information has been able to be generated by study of the film. I can't tell in the future what new techniques will be devised which will give us a closer aspect of the truth, but no you are not going to find in the Zapruder film a Rosetta stone of who did it.

Art Simon,

The film has become a fetishized object, invested with the potential to coverup our lack of reliable answers to many questions. In fact, this faith in future enhancements of the film has been a recurring trope over the last 30 years and, of course, a variety of such processes have been applied to the film. The Zapruder footage has repeatedly been cast in the role of ultimate witness and investigators on both sides of the debate have insisted that, with the proper scrutiny, its images can render a legible view of the event.

Debra Conway,

I ask you to be bold and to use the JFK Act to collect and protect the originals of these items. Lock boxes and shoe boxes are not acceptable repositories. The value of scholars and researcher's access to these items must be placed above those of private owners, private collectors, or museums. Let the owners continue their collection of fees for use of films or photos, or even maintain ownership, copyright, be compensated, however, you must insist that the originals of these most important films and photographs be properly housed in the government archives and never allowed to be sold.

While I am a firm believer in the American free enterprise system and the rights of property holders, these must be exceptions. The issue of ownership, copyrights, and 'show me the money' is secondary to the need to assign these materials permanent protection as JFK assassination documents.

Questions that would seem to be also appropriate, if for the question of whether there is a statutory authority to "take" the film are as follows:

- What actions may the Review Board legally and properly take in order to ensure that the public has access to the original and to high quality copies of the film?

- If the Board believes that the film should be owned by the U.S. government, should the "taking" be by an action of the Review Board or is that an action that should be taken by Congress?

- Another question is whether the Review Board under the JFK Act, has the legal authority to take the Zapruder film?

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